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## DRAFT

### Alternative Imaginings of Regulation: An Experiment in Co-production

Morag McDermont, University of Bristol with Productive Margins Collective

#### Abstract:

Despite decades of regulatory scholarship that took responsive regulation and regulatory space as starting points, much regulatory practice still has little focus on the experiences of those at the ‘sharp-end’ of regulation. In this paper we develop some of the insights from a five-year research programme that aimed to explore what regulatory systems might look like if they took seriously the idea of ‘regulating *for* engagement’, working with community organisations to understand how regulation is experienced ‘at the margins’. We argue that the methodology of co-production expands our ways of knowing by allowing in expertise-by-experience to the deliberative processes of regulation; and the creative processes that artists bring in can produce artefacts that have an important role in developing ‘really responsive regulation’.

#### INTRODUCTION

I have children. I am worried about my children’s life. I want them to be healthy, have a good life, good community. I don’t like them eating bad food. I want my children to have healthy food. [Fathia]

Why do children love takeaways so much? What do they put in it? They put magic in it! [Suci]<sup>1</sup>

These are voices of two of the participants in a project which was part of a large co-produced programme of research between seven community organisations in Bristol and south Wales, and academics at the Universities of Bristol and Cardiff. The research question for this particular project, ‘Who decides what’s in my fridge?’ arose from discussions involving multiple forms of expertise: of those living in the inner-city where fast food takeaways occupy every second shop on the high street; residents of an outer-estate where access to cheap, healthy food means a long and costly bus-ride; community organisations working in communities considered to be at the margins of society; and academics studying food production and regulation. The voices illustrate participant’s frustration at their inability

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<sup>1</sup> ‘They put magic in it!: Working together for a healthier food culture in Easton’  
<<https://www.facebook.com/SomaliKitchen/>>

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to influence, let alone regulate, what their children eat because their concerns for well-being cannot compete with the ‘magic’ ingredient in (unhealthy) takeaway food.

Despite decades of regulatory scholarship that took responsive regulation and regulatory space as starting points, much regulatory practice still has little focus on the experiences of those at the ‘sharp-end’ of regulation. ‘Productive Margins: regulating *for* engagement’, was a five-year research programme that aimed to explore what regulatory systems might look like if they took seriously the idea of ‘regulating *for* engagement’. The programme sought to investigate, ‘How can we design regulatory regimes that begin from the capabilities of communities excluded from the mainstream, finding ways of powerfully supporting the knowledge, passions and creativity of citizens?’<sup>2</sup> It was in part an experiment in thinking beyond capitalism to community economies as an ‘ethical and political space of becoming’.<sup>3</sup> This, we argue, requires a rethinking of regulation, towards regulatory systems that allow deliberation by a diverse range of actors,<sup>4</sup> – not just regulators and relatively powerful organisations but also those in communities who experience the effects of regulation in their daily lives.

The programme too was an attempt to enact ‘new experiments in living’:<sup>5</sup> to do research differently through co-producing an entire research programme between community organisations who worked with communities ‘at the margins’ and a multi-disciplinary group of academics along with artist practitioners. The paper takes the co-produced research programme as an exemplar of what ‘regulating *for* engagement’ might look like or attempt to be, and the difficulties and limitations encountered in trying to make this happen. We believe that the insights we have gained from this experiment can be carried through to other regulatory regimes; for, in attempting to change regulatory practices to enable engagement by communities at the margins, regulatory organisations need to change their ‘point of view’, they need to be able to see the regulatory regimes enacted from a point of view that can capture and dialogue with the experiences of citizens and communities who are experiencing ‘being regulated’.

The paper proceeds as follows. We begin with the intellectual problem that was the starting point for the programme: our frustrations with the limitations of both regulatory practices and the scholarship on regulation and governance. The paper is then organised around four **regulatory moments and questions** which arose in the design and development of the co-production process. These questions required us to rethink, shift and change our own practices.

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<sup>2</sup> M. McDermont et al ‘Case for Support’ (2012) <[www.productive-margins.ac.uk](http://www.productive-margins.ac.uk)>

<sup>3</sup> J.K. Gibson-Graham, *The End of Capitalism (As We Knew It)* (2006, 2<sup>nd</sup> edn.).

<sup>4</sup> C.f. Julia Black, ‘Proceduralizing Regulation: Part I’ (2000) 20 *Oxford J. of Legal Studies* 597; ‘Part II’ (2001) 21 *Oxford J. of Legal Studies* 21.

<sup>5</sup> Gibson-Graham, op. cit., n. 3.

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- **What counts as expertise?** Expertise arose as a question from the outset, from the shaping of the funding bid (who were the partners?), to research design, and analysis and writing up. In bringing in ‘expertise by experience’,<sup>6</sup> we also created new exclusions.
- **How to organise co-production:** different ways of understanding research through principles of co-production required different formats for organising – but how innovative we felt we could be was constrained by existing practices and power relations, particularly unequal power relations among the universities, and between the universities and community organisations.
- **How to organise money and contracts:** in attempting to produce a different environment for research, in which community organisations and universities could be equal partners, we were constantly bumping up against the existing systems of financing research and of organising the contractual relationships between partners.
- **How to see differently:** co-production itself is a way of seeing differently; working with artists further enabled a shift in ‘point of view’, creating disruptions in dominant perspectives.

We conclude with some considerations about the ways in which regulatory systems need to shift in order to ‘regulate for engagement’. Co-production regulated us, and our co-productions themselves were regulated by other systems. We began to see this as a layering of regulation that occurs in many instances; a layering that, for example, many of the community members who became part of this research experienced daily. This could be understood as a process of ‘lamination’, where the layers of regulation became bonded, making it very difficult to prise them apart and find ways for experimentation in regulating for engagement.

### RE-THINKING REGULATORY SPACES

‘Regulation’, as a mechanism of governing, has become ubiquitous in recent decades.<sup>7</sup>

*...regulatory reforms have spread around the globe, accompanied by new institutions, technologies, and instruments of regulation that have had an enormous impact on the social and economic fabric.*<sup>8</sup>

As a means of social control and influence,<sup>9</sup> regulatory mechanisms are attractive to politicians and policy-makers: their technical nature gives the appearance of political neutrality allowing regulations to travel globally as “seemingly fluid and flexible instruments of rule”.<sup>10</sup>

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<sup>6</sup> T. Noorani ‘Service User Involvement, Authority and the ‘Expert-by-Experience’ in Mental Health’ (2013) 6(1) *J. of Political Power* 49.

<sup>7</sup> Z.U. Turem and A. Ballesterio, ‘Regulatory Translations: Expertise and Affect in Global Legal Fields’ (2014) 21(1) *Indiana J. of Global Legal Studies* 1, at 3.

<sup>8</sup> D. Levi-Faur & J. Jordana, ‘The Making of a New Regulatory Order’ (2005) 598 *Annals of the Am. Academy of Political and Social Science* 6, at 6.

<sup>9</sup> J. Baldwin & M. Cave, *Understanding Regulation* (1999).

<sup>10</sup> *Op. cit.*, n. 1.

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Regulation thinking has evolved considerably over the last three decades, moving away from hierarchical command and control to ‘reflexive regulation,’<sup>11</sup> self-regulation, regulatory toolkits and performance targets. However, the concept of regulatory space,<sup>12</sup> and the practices of regulators rarely see beyond the inclusion of professionals or business organisations in regulatory structures. Citizens and communities who are positioned as the ‘beneficiaries’ of regulation rarely get a seat at the table, even though they are frequently also the subjects of regulation, and bodies that are intended to be bound by regulation frequently benefit from it.<sup>13</sup> Citizen and community engagement is limited to, for example, including a tenant on a housing association boards,<sup>14</sup> or requiring regulators to establish consumer panels.

In regulating financial markets, as Julia Black has said, there is a need to ‘develop a socially enriched way of seeing and knowing’ if regulators are to regulate in a “really responsive way”.<sup>15</sup> From our perspective there are two significant problems. First, whilst there is some insightful work about the craft of regulation,<sup>16</sup> what is neglected is the experience of being regulated from the perspective of those in communities who are frequently at the ‘sharp-end’ of regulatory mechanisms – those who have to negotiate the social care system for themselves, their children or parents; those who try to navigate the immigration system or the welfare benefits system; or those who want to source healthy food for their families but find that decisions (actual and perceived) of planners, food standards officers and food suppliers make this impossible.

The second problem is that, in decentring regulation scholarship,<sup>17</sup> the focus becomes the experiences of the technocrats in a set of systems that are viewed as largely *discrete*: health and safety; food standards and a multiplicity of other forms of market regulation; regulation of social systems such as housing or social care. Taken together these two problems – a lack of the perspectives of ‘ordinary’ citizens, and a siloed-approach to the study of regulation – mean that regulation scholarship and practice still feels ‘top-down’, unable to see the complex web of regulatory systems and regulations that enmesh

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<sup>11</sup> For example, I. Ayres and J. Braithwaite *Responsive Regulation: Transcending the Deregulation Debate* (1992).

<sup>12</sup> L. Hancher and M. Moran ‘Organizing Regulatory Space’ in *Capitalism, Culture and Economic Regulation*, eds. L. Hancher and M. Moran (1989).

<sup>13</sup> M. Koenig-Archibugi and K. Macdonald, ‘The Role of Beneficiaries in Transnational Regulatory Processes’ (2017) 670 *Annals of the Am. Academy of Political and Social Science* 36.

<sup>14</sup> M. McDermont et al., ‘Structuring Governance: A Case Study of the New Organisational Provision of Public Service Delivery (2009) 29(4) *Critical Social Policy* 677.

<sup>15</sup> J. Black, ‘Seeing, Knowing, and Regulating Financial Markets: Moving the Cognitive Framework from the Economic to the Social’ LSE Law, Society and Economy Working Papers 24/2013.

<sup>16</sup> For example, K. Hawkins, *Law as Last Resort* (2002); F. Haines and A. Sutton ‘The Engineer’s Dilemma: A Sociological Perspective on Juridification and Regulation’ (2003) 39 *Crime, Law and Social Change* 1.

<sup>17</sup> For example, J. Black ‘Decentring Regulation: Understanding the Role of Regulation and Self-regulation in a ‘Post-regulatory’ World’ (2001) 54(1) *Current Legal Problems* 103.

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the lives of communities at the margins. Regulatory systems are experienced as feelings of helplessness, lack of any agency and a belief that ‘ordinary people’ are simply ignored.

This was the starting point for our research proposal: Productive Margins: Regulating *for* Engagement. The programme was interdisciplinary and collaborative, involving artists and community researchers alongside community development experts and academics. Through this partnership, that attempted to incorporate ‘expertise by experience’ as much as ‘expertise by certification’,<sup>18</sup> we hoped to develop more holistic, complex understandings of regulatory systems which incorporated the *experience* embodied in the communities who were collaborators in the research. This would lead to understandings of regulation and audit of a different character, understandings that took account of the multiple subjectivities of different actors in a much-expanded view of regulatory space.<sup>19</sup>

In choosing a methodology of co-production, our research programme was part of a ‘wider contemporary tendency toward participatory practices in areas ranging from the arts, to industry, to “open” government in which users/publics/patients/audiences/communities are invited to take on more active roles in shaping the knowledge, policies and practices of the world around them’.<sup>20</sup> Research practice in higher education institutions is itself multiply regulated. As such, we suggest that the struggles we have faced in shifting modes of research towards models of ‘engagement’, are likely to resemble attempts at co-production elsewhere, for example, in public services.<sup>21</sup> The regulatory moments that have shaped our experiment are, we believe, more generic regulatory moments faced by all systems attempting to regulate for engagement. We hope that the questions we have had to face and the problems we have tried to solve will provide food for thought for regulation scholars and practitioners.

What follows tells one version of the story of Productive Margins. The data sources for this paper are primarily the programme outputs programme,<sup>22</sup> and paired interviews between the programme’s Co-Investigators which took place three years into the programme.<sup>23</sup> Whilst the paper, like everything in Productive Margins, involves many who have worked on the programme, it is primarily the perspective of the Principal Investigator, an academic with 15 years’ prior experience working in local government and the social housing sector, who, being the PI, had particular regulatory concerns arising from a

**Commented [TA1]:** Is this shorthand for ‘Higher Education’? Will the reader be familiar with the abbreviation?

<sup>18</sup> See H.M Collins and R. Evans ‘The Third Wave of Science Studies: Studies of Expertise and Experience’ (2007) 32(2) *Social Studies of Science* 235.

<sup>19</sup> A. Ballesterio, ‘What Is in a Percentage?: Calculation as the Poetic Translation of Human Rights’ (2014) 21(1) *Indiana J. of Global Legal Studies* 27.

<sup>20</sup> K. Facer and B. Enright, *Creating Living Knowledge: The Connected Communities Programme, Community-University Relationships and the Participatory Turn in the Production of Knowledge* (2016), at 144.

<sup>21</sup> For example, D. Boyle et al., *Public Services Inside Out: Putting Co-production into Practice* (2010).

<sup>22</sup> See <[www.productive-margins.ac.uk](http://www.productive-margins.ac.uk)>

<sup>23</sup> Thanks to Aleks Lewicki for her analysis of these interviews.

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responsibility for the delivery of the programme and its targets. There are many ways in which the story of Productive Margins could be told – this is one of them.

### THE STORY OF PRODUCTIVE MARGINS IN FOUR REGULATORY MOMENTS

Here we use the idea of a ‘moment’ in two senses. First, a ‘moment’ focuses on a point in time in the research programme; and second, a ‘moment’ as a turning effect of a force. In physics, a moment involves ‘the product of a distance and a physical quantity, and in this way it accounts for how the physical quantity is located or arranged’.<sup>24</sup> So moments are usually defined with respect to a fixed reference point, in our case a particular decision, or set of decisions we had to make which had significant regulatory effects on the direction of the research programme.

#### 1. *First Regulatory Moment: What Counts as Expertise*

Whilst Productive Margins aimed to imagine regulatory systems differently, it also grew out of a commitment to do research differently, to re-imagine the spaces in which knowledge and new understandings are brought into being. The academics who set up the programme were frustrated with the separation of ‘the academy’ from everyday life; even if the ‘ivory tower’ image was no longer valid, we knew that many of the communities in which research was carried out experienced research as a process of extraction. If the generation of new knowledge is the product of thought, we started out from a point where ‘thought was inseparable from the world’.<sup>25</sup> We had developed research practices that were more collaborative: not simply ‘giving voice to’ previously unheard, unseen subjects, but seeking to bring in alternative, non-academic actors as experts in the production of knowledge.

The programme was therefore a site of experimentation. We used the term ‘co-production’ to denote the work of *production* that would be done *co*-llaboratively, drawing on a history of participatory research, participatory action research and other labellings, and particularly research inspired by the UK Research Council’s Connected Communities programme.<sup>26</sup> Our programme was an attempt to design a whole programme of research collaboratively between academics and community organisations – from the fields for inquiry, to the research questions, research design, data collection, data analysis, and writing book chapters, journal articles, blogs and all those ‘outputs’ that are part of the standard research process. Indeed, our collaborative, multi-disciplinary partnership led to many arguments about what constitutes research, data and outputs.

The first regulatory moment occurred in writing the research bid which arose in response to a funding call from the Economic and Social Research Council for two large grants (up to £2.4 million each) to be awarded for the whole of the UK, one to address the ‘regulation of engagement’. The nature of the partnership that came together at this first stage, composed of academics from the universities of Bristol

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<sup>24</sup> Wikipedia, accessed 16.08.17

<sup>25</sup> M. Foucault, quoted in P. Rabinow, *Anthropos Today: Reflections of Modern Equipment* (2003), at 11.

<sup>26</sup> See Facer and Enright, *op. cit.*, n. 20.

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and Cardiff, shaped all subsequent decision-making. The academics spanned a range of disciplines: archaeology & anthropology, education, film studies, geography, history, law, social policy, sociology, criminology, and psychology. The collaboration Bristol and Cardiff created a potential to focus on the differing regulatory regimes thrown up by the devolution of government in Wales. Having established a core group of academics, each was asked to nominate a community organisation they had been working with. Whilst this ran the danger of perpetuating existing elite partnerships,<sup>27</sup> the rationale was that, given the experimental, high-risk nature of the programme there was a need for some common experiences, expectations and trust developed through prior working arrangements.<sup>28</sup>

Just as the academics were multi-disciplinary, so the community organisations were multi-facing: 3G's Development Trust, a social enterprise, established in 1995 at the head of a Welsh valley in the in Gurnos and Galon Uchaf, previously coal-mining and steel-making communities;<sup>29</sup> Building the Bridge, which emerged out of the New Labour Government's Prevent agenda as a participatory mechanism that institutionalised a new relationship between the City Council, the Police, various statutory agencies and Bristol's diverse Muslim community;<sup>30</sup> Coexist, a Community Interest Company and umbrella organisation for grass-roots organisations and community groups which occupies a formerly derelict office building in Stokes Croft, Bristol; Knowle West Media Centre, a creative-media organisation/registered charity based in one of the most economically deprived areas of Bristol;<sup>31</sup> Single Parents Action Network (SPAN), a Bristol-based organisation which aims to empower one parent families throughout the UK; Southville Community Development Association (SCDA), a social enterprise and charity running a community building, a café, a nursery, a pre-school and pre/afterschool club and older people's services; and South Riverside Community Development Centre (SRCDC), a charity and a company registered by guarantee, which had been funded through the Welsh Government's Communities First programme to support the most disadvantaged communities in the Butetown, Riverside and Grangetown areas of Cardiff.<sup>32</sup>

The community organisations deliver services, occupy positions of authority and are all, in different ways, entrepreneurial organisations. However, years of austerity politics have created an increasingly difficult working environment for these organisations, who are faced with ever-increasing demands and

<sup>27</sup> Recognised as a problem across university community partnerships – see Facer and Enright, op. cit., n. 20, pp. 7-8; recommendation 3: 'take explicit steps to mitigate the risk of enhancing inequalities through collaborative research'.

<sup>28</sup> See for example, C. Blencowe et al., 'Immanent Authority and the Making of Community' *AHRC Report* (2011).

<sup>29</sup> <<http://www.3gs.org.uk/History.htm>>

<sup>30</sup> A. Lewicki et al., *Building the Bridge: Muslim Community Engagement in Bristol* (2014) Centre for the study of Ethnicity and Citizenship, University of Bristol, at 3.

<sup>31</sup> <<http://kwmc.org.uk/about/>>

<sup>32</sup> 3Gs and SRCDC have experienced immense upheaval since the Welsh Government announced in 2016 that it would phase out the Communities First programme: <<http://gov.wales/newsroom/people-and-communities/2016/new-approach-needed-to-build-resilient-communities/?lang=en>>.

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Is SPAN still running?



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ever-reducing financial resources. During the period of the research programme the sustained existence of some of these organisations has been in question. Their motivations for being involved were varied. They all felt a research partnership with universities added value to what they did; for some the values of co-production were closely aligned to their values as community development workers. But for many (perhaps all) part of the rationale related to the constant search for funding to develop ideas:

As a full-time community development worker, (unpaid), one of my tasks is to seek resources and I was partly looking for ways in which I could actually use the resources of the university to promote issues in the locality and with some degree is a success I think.

So, our first regulatory moment, which occurred around the formation of the research partnership, required us to be concerned with the question, 'what counts as expertise?' The principle that 'experts by experience' were co-creators in knowledge production was overlaid by a number of regulatory requirements. The rules and norms surrounding funding bids meant that decisions about the composition and the ordering of the partnership were taken largely by the academics, which created hierarchies and power structures that ran through the programme. The decision that expertise would come from a range of academic disciplines and people who worked in community organisations as 'expert citizens'<sup>33</sup> shaped the future direction of the programme. This raised tricky questions about community organisations as 'representative' of, or at least, in the position to 'speak for' communities. The claim to 'represent' has always been caught in a double bind, as representatives are expected to 'speak the will' of those they represent, which is difficult at best.<sup>34</sup> This did not go without challenge in our programme: for example, as we saw at the beginning of the paper, several of the community organisations had decided that issues around the regulation of food were a priority and this formed one of the programme's seven research projects. However, when women from the Somali community in Bristol were brought together as the community researchers on this project, some questioned why they were talking about food at all – from their perspective, they had plenty of food. As the community and university researchers unpicked the issue of fast food takeaways it became clear that concerns centred not only around the health impacts, but also the lack of alternative spaces in the community for children, young people and women. With few other options in the area, the fast food takeaway queue had become the congregating point for the Somali youth, providing an arena for anti-social behaviour and gangs.<sup>35</sup>

External regulatory mechanisms also affected the composition of the partnership: two other community organisations had been included in the original bid but had to withdraw after only a few months because

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<sup>33</sup> See H. Bang, 'Everyday Makers and Expert Citizens: Active Participants in the Search for a New Governance' in *Remaking Governance: Peoples, Politics and the Public Sphere*, ed. J. Newman (2005).

<sup>34</sup> J. Brigstocke, 'Democracy and the Reinvention of Authority', in *Problems of Participation: Reflections on Democracy Authority and the Struggle for Common Life*, eds. T. Noorani et al. (2013), at 7.

<sup>35</sup> K. Webster, *Who Decides What's in My Fridge? An Overview of the Productive Margins Food project*, (2016) at 15-16 <<http://www.productivemargins.ac.uk/files/2017/02/foodprojectreport.pdf>>.

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the intensity of time and commitment required by the programme conflicted with other organisational priorities, particularly their funders' priorities. In this first regulatory moment our programme was already enmeshed in a complex web of, often conflicting, regulatory systems.

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### 2. *Second Regulatory Moment: How to Organise Deliberation*

Co-producing a research programme required radical rethinking of the processes of research. Indeed, at times we felt we used more energy on the processes of co-production than on our substantive focus of 'regulating for engagement'. This, perhaps, was hardly surprising since we were attempting to challenge established understandings of how universities conduct research, to turn our universities inside out.

So, our second regulatory question was how to proceduralise our experiment in co-producing a research programme. Our site of co-production was the Productive Communities Research Forum which, as we set out in funding bid in the Case for Support, was to be

an innovative mechanism where academics and communities together will identify research projects that develop regulatory regimes for engaging communities, projects that arise out of everyday lives rather than the bureaucratic needs of mainstream institutions. The Forum will co-produce the content of the 'Productive Margins' research programme. Our methodology of co-production begins with two principles: 1) academics and community organisations are equal partners in the design and delivery of the research programme; 2) new understandings arise when we reflect what we think we know against others who bring to the field different perspectives.<sup>36</sup>

The Research Forum was an attempt to create alternative spaces in which to think, theorise, gather data and analyse,<sup>37</sup> a site in which we all became 'co-investigators'. It had to be open to contingency.<sup>38</sup>

Recognising that knowledge and expertise are situational, the Forum was always on the move. The first meeting took place in Bristol University and was subsequently located in each of the partner organisations. The first time we met in a partner's 'home', our day began with a site visit around the organisation's facilities, local spaces and places that were important in making up the local community.

We experimented with format and ways of engaging between Forum members, with the host organisation for each Forum having a role in designing the shape of the day and methods used. At the first Forum, everyone brought an object which represented their understanding of 'regulation'; at the

<sup>36</sup> McDermont et al., op. cit., n 2.

<sup>37</sup> J.K. Gibson-Graham and G. Roelvink, 'The 'nitty-Gritty of Creating Alternative Economies' (2011) 30(1) *Social Alternatives* 29.

<sup>38</sup> J. Pearce, "'We Make Progress Because We are Lost': Critical Reflections on Co-Producing Knowledge as a Methodology for Researching Non-Governmental Public Action' (2008) <<http://eprints.ncrm.ac.uk/337/>>.

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second, in 3Gs, following a visit to the site of the Aberfan disaster,<sup>39</sup> we worked with maps; at the third, in KWMC, some of us did bread-making; at the fourth, at SPAN, we brought in a facilitator external to the Research Forum, something we had previously resisted.

Co-production requires time.<sup>40</sup> If we were to gain new understandings by putting unfamiliar perspectives together, there had to be time for trust to develop. Co-production required a *slowing down* of our working practices, something that many of the co-investigators, from the universities and community organisations alike, found difficult. Here, an academic is speaking to the CEO of a community organisation:

the relationships had to be built ... arguably that's what the Knowle West Media Centre day was about, but ... like you I was wandering around the garden trying really hard not to think about all the other things that were sitting on my desk waiting to be done, ... did we take a little bit too much time at the beginning to do the relationship bit?

Having spent four meetings coming to understand the issues and concerns of each of the partners, a year on at South Riverside we were able to get down to identifying themes and devising research questions with flipcharts and post-its. Three subject areas emerged from discussions over the past year, each of which brought together concerns of two or more of the partner organisations: (i) isolation and loneliness in older people; (ii) poverty; and (iii) the regulation of food. At this point the Research Forum format evolved: working groups were set up around each of these themes, comprising academics and community organisations which then, at different paces, developed ideas.

We had resisted setting up formal processes for making decisions in Forum meetings on what research questions were adopted and which projects went forward; the academics did not want to be appearing to dictate, we wanted to leave space for emergence. However, at the sixth Forum in May 2014 (Southville) we adopted the fishbowl technique<sup>41</sup> as a mechanism for enabling a working group to set out their ideas which could then be open to critique by the rest of the Forum. The 'fishbowl' had the working group members in the centre of the stage, the rest of the Forum as audience. The working group had ten minutes to present ideas; in this time the 'audience' was not allowed to intervene but anyone who became engaged by the issues presented could join the central group. After ten minutes, the audience took over with their critique and the central group was not allowed to respond. As a technique, it proved controversial – some thought it engaging, others felt intimidated.

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<sup>39</sup> See for example, C. Jackson, 'Aberfan: The Mistake that Cost a Village Its Children' *BBC*, 21 October 2016 <<http://www.bbc.co.uk/news/resources/150d11df-c541-44a9-9332-560a19828c47>>.

<sup>40</sup> For example, N. Theodore 'Subject Spaces: Towards an Ethics of Co-Production' <<http://www.ijurr.org/lecture/2015-aag-ijurr-lecture/>>.

<sup>41</sup> A technique used by, amongst others, the United Nations: 'Share, learn, innovate!' Office of the High Commissioner for Human Rights (2011) <<http://slitoolkit.ohchr.org/>>.

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At the July 2014 Forum, Coexist provided a trained facilitator who utilised drama exercises (which made some of us uncomfortable) and craft. The working groups gave presentations of their proposed projects with the aim that the Forum could give them approval to go ahead. It was here that we adopted a mechanism to *perform* approval, following the facilitator's suggestion that those in favour shout 'o'shea!'

Despite intentions that all should be 'equal partners' in the research process, inequalities of power were still felt to pervade our processes. Some of these inequalities arose from the funding model, as we discuss in the next section; others, from participants' own perceptions of expertise/power relations. There was anxiety on all sides about the dominance of academic expertise. Some academics felt that a counterproductive dynamic emerged from the expectation that community partners were to generate research questions, which were then 'evaluated' by themselves, putting them in a position whereby they had to say 'but this work has been done here and here' or 'this is not good enough' or 'I am not interested in this', which they did not perceive as a comfortable position to be in. This led to academics 'holding back' as one community Co-I expressed:

there's been parts of the process that have been a bit like 'I don't want to do anything at this point which is going to let people explore in a kind of... as if something new or magical will take place by just watching people in the room come to something,' whereas I actually think I can be much bolder.

But some academics felt that they were expected to step in with their expertise and knowledge:

I think it was when we started doing the fish bowls and you know finally the impatient academic in me couldn't be patient any longer it was like 'well actually there's an academic literature' ... I had that moment, everybody looked at me huge... breathed a huge sigh of relief ... 'that's what we needed the academics to do, that's what the academics need to contribute'.

The second regulatory question, how to organise deliberation, required a focus on format, location, and time (allowing time); it also interacted with the first question of what counts as expertise. For those who felt they were in the position of domination, trying to break through the norms of what counts as expertise at times did not produce an equality of expertise but an upturning of hierarchies. Methodologies of co-production, recognising the expertise of lived experience held by community members, asks them to become researchers in their community, without the 'expertise by certification' of academic researchers.<sup>42</sup> What then is the 'expertise' that academics bring? Scholarly expertise, being able to identify the existing academic literature that surrounds a particular field of enquiry is only one of many forms of expertise that is required to make collaborative partnerships work. Facer and Enright, reporting on the Connected Communities programme, identified thirteen roles, including the catalyser,

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<sup>42</sup> Collins and Evans, *op. cit.*, n. 18.

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integrator, accountant, data gatherer and the loudhailer (who promotes the work).<sup>43</sup> Some of these we see emerging in the next stage when the working groups got down to work. However, this regulatory moment would suggest a need for what Collins and Evans have termed ‘SEE, Studies in Expertise and Experience’, developing clearer understandings of the knowledge, experience, skills and practices that partners bring to collaborative, interdisciplinary work.

### 3. *Third Regulatory Moment: How to Organise Resources*

The Research Forum had been a difficult format for some: it was too big, a site where people took positions and, despite the sense that academics were ‘holding back’, still dominated by academic language. In establishing the working groups many felt that they could get down to the nitty-gritty of co-production:

for me it’s the smaller projects that are working at the moment. ... for example, the food project ... we describe it, who decides what’s in my fridge? So for us that’s a very easy win in a sense for community to understand because what we want to do is challenge the fact that local people don’t have access to affordable healthy food.

Nevertheless, despite the fact that the focus of each project topic was identified as a matter of concern for two or more of the community organisations, and membership of working groups was self-selecting, there was still a sense particularly from community organisations that the management of the programme was academically and financially driven, and was not co-produced:

the management of this project does not feel co-produced at all to me. There’s a senior management team of which I think you’re a part and you are making the decisions so the regulation within this project is actually quite tight, it’s not loose it’s not co-produced which is fine I’ve got no problem with that ... [but] ... it’s a very academic-skewed way of managing

And another:

...most of the decisions, the significant ones, have been taken in the light of the rules of the funding as far as I can see [...] I would be surprised if that wasn’t the case. But it couldn’t be described as co-production.

In part this arose because the management of resources was highly regulated by mechanisms and systems external to the research programme. Despite our principles of co-production, many of the decisions about how to allocate resources had had to be taken at the grant bidding stage and many of the rules we had to comply with had been developed by the hierarchical structures of the University of Bristol (as holder of the grant) and the norms of academic research.

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<sup>43</sup> Op. cit., n. 20, p. 4.

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The programme could fund seven projects: each project was intended to run for a year, had funding for a research assistant (RA) (full-time for one year), an academic lead (10% for a year) and fieldwork costs of £50,000. In an attempt to move some elements of the programme away from the universities, the Case for Support had proposed two different models for employing the RAs: for three of the seven projects the RA would be employed by a community organisation, the other four would follow the traditional route where the RA was employed by one of the universities. The former model spread the funding further, as a community RA cost less, partly because community organisations overheads are lower than universities, but also because salaries are generally lower.<sup>44</sup>

However, this seeming democratisation of the allocation of funding had its problems:

- For the RAs, being located in a community organisation meant multiple accountabilities and in some cases, they could become drawn into other organisational tasks and so became more like community workers than researchers, which was particularly difficult if they saw themselves as progressing in an academic career.<sup>45</sup>
- As all projects involved two, sometimes three community organisations, the RA had either to be based in one organisation, which created tensions with the others over allocation of funding and RA time; or two RAs were employed on fractional contracts, one in each community organisation. In one project, this latter model arose in part out of geography – one organisation was Bristol-based, the other Merthyr Tydfil – as it would have been practically very difficult for one RA to travel between these locations. However, this resulted in different methodologies and additional work for the lead academic in supporting both RAs and projects.
- As the salary for a community-based RA was lower, this raised questions of whether it was equitable to include the same level of responsibility and duties in the RA job description.

Also problematic was the one-year funding; in effect, this mode of employing researchers, which gave the research programme as a whole considerable flexibility, contributed to the casualisation and precarious employment practices of research work,<sup>46</sup> practices that other elements of the research programme would critique as barriers of engagement in regulatory decision-making.<sup>47</sup>

Other factors external to the research programme also regulated our experiments in co-production, leading to sometimes difficult problems of power relations. Our aim for a partnership of equals was

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<sup>44</sup> See Facer and Enright. op. cit., n. 26, chapter 5 on the disparities between university and community organisation funding.

<sup>45</sup> For more on this see M. Howard et al., 'Conceptualising Quality in Co-Produced research' (forthcoming); Facer and Enright, op. cit., n. 26, pp. 114-6.

<sup>46</sup> See B. Enright et al., 'Reframing Co-production: Gender, Relational Academic Labour and the University' in *Emotional States: Sites and Spaces of Affective Governance*, eds. E. Jupp et al. (2017).

<sup>47</sup> For example, Poulter et al., *Life Chances: A Work of Sociological Fiction* (2016) <<https://www.amazon.co.uk/dp/1527203743>>.

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made impossible partly through practicalities. The location of the funding with the University of Bristol obliged all partners to abide by the University's finance rules and led to the feeling that the University was 'in charge'.

A further barrier to collaborative working arose from the norms of contractual arrangements between universities and their research partners. Like most universities, the University of Bristol has a large central team responsible for creating contracts between the university and its partners. When the University's standard contract was presented to the community organisations in Productive Margins it was considered not to be in the spirit of collaboration. For example, these contracts place the ownership of all data and outputs from the research with the University whereas co-production would look to joint ownership or community stewardship. However, timescales and the complexities of legal forms meant that rewriting the contract was not possible. Our solution was a sort of 'fudge', to change the name from contract to 'collaborative agreement' and include an appendix which dealt with the distribution of work between the partners and the co-ownership of data between the university and community organisations. However, this process of contracting only really worked within Productive Margins because our Programme Co-ordinator was able to act as broker between the Contracts team and community organisations, translating the requirement of co-production into the language of a hierarchical bureaucracy, and vice versa. Without an experienced broker, the very different frames of reference operated by experts in contracts and our partners could well have brought our research collaborations to a stand-still.

So, the third regulatory moment, how to organise resources, led to practices that were not compatible with the principles of equality of the co-production relationship. Once again, being enmeshed in multiple layers of regulation required compromises within the programme and accusations that what we were doing was not co-production.

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### 4. *Fourth Regulatory Moment: 'Seeing Differently'*

Seeing differently often involves a decolonising process ... Artists brought intuitive and disparate forms of knowing to cross-disciplinary projects.<sup>48</sup>

At the beginning of this paper we argued that a critical element in making regulatory systems more engaged with the communities at the sharp end of regulation was to be able to 'see differently'.<sup>49</sup> Bringing in 'expertise by experience' has been part of that process, working with artists another element. All projects involved artists in some way and we employed programme 'artists-in-residence' in the final eighteen months. As members of working groups, artists have been involved in helping to conceptualise research questions, in shifting understandings of the object of study, and in working towards the shared goal of transforming regulatory structures.<sup>50</sup> In this section, one of the research projects, 'Life Chances: low income families in modern urban settings',<sup>51</sup> is used to illustrate some of the ways in which this regulatory moment produced turning points in the research.

The 'Life Chances' project arose out of the working group that formed at the South-Riverside Research Forum around issues of poverty. The two community organisations involved, SPAN and SRCDC, had similar aims and values: they had both been set up to challenge poverty and disadvantage in multi-cultural areas of Bristol and Cardiff respectively. The working group was concerned about the government's Big Society discourse which sought to institutionalise participatory engagement, and control voice and resistance; their focus became 'low-income families in modern urban settings: poverty, austerity and participatory research' which was an attempt to subvert this agenda.<sup>52</sup> Appointing artists Close & Remote (C&R) produced a turning point in conceptualising the object of study. Agency, and ideas of micro-utopias,<sup>53</sup> are important in their work; art is not about appropriating agency or voice for 'the community', but about reframing problems of agency. Having stumbled upon the Government's twitter account for its 'Life Chances' programme (#LifeChances), they proposed moving away from the deficit model of 'poverty' seeking rather to disrupt the programme's images of hetero-normative, mono-racial and largely fictionalised family type (Fig. 1) and re-appropriate the term.

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<sup>48</sup> K. Facer and K. Pahl (eds.) *Valuing Interdisciplinary Collaborative Research: Beyond Impact* (2017), at 15.

<sup>49</sup> C.f. Black, op. cit., n. 15.

<sup>50</sup> K. Pahl et al., 'What Is the Role of Artists in Collaborative Interdisciplinary Projects with Universities and Communities?' in Facer and Pahl, op. cit., n. 48; P. Evans and A. Piccini 'The Regulatory Aesthetics of Co-Production' in *The Impact of Co-Production: From Community Engagement to Social Justice*, ed. A. Ersoy (2017).

<sup>51</sup> <<http://www.productivemargins.ac.uk/projects/low-income-families/>>.

<sup>52</sup> The 'Big Society' was the UK Coalition Government's 'big idea', seen by many as an excuse for privatising and running down public services. The story of the Life Chances project will be told in Cohen et al. in Ersoy, op. cit., n. 50.

<sup>53</sup> G. Kester, *The One and the Many: Contemporary Collaborative Art in a Global Context* (2011); see Thorpe in this journal on 'every-day utopias'



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In commissioning the artists, the working group asked for artwork that ‘imagines, envisions and realises new spatial-regulatory scenarios that place families at the heart of decision-making’. C&R proposed developing and co-writing a novel with community participants because, ‘the novel format enabled a form of fictionalising of the real. It gave everyone some cover and distance’.<sup>54</sup>

In workshops with volunteers, community workers, researchers and the artists, fictional characters were created, loosely based on individuals’ lives, with storylines about the impact on the characters’ lives of regulatory systems such as benefits, housing, immigration and child protection. The novel<sup>55</sup> explored different ‘life chances’ of families with children, looking at situations in the present and how they could be different in the future, making visible experiences of multiple layers of regulation as characters grappled with racism at work, in social work and schooling systems, welfare benefits and housing systems, and illustrated how regulatory systems often failed to match the lived reality of the supposed beneficiaries of regulation. The creative space enabled the re-imagining of regulatory systems into new ‘community economies’. As a mechanism for active involvement, the artists had workshop participants make jewellery. In the novel, a jewellery-making Community Interest Company (CIC) was created, imagining a different utopia from that envisaged by government policy:

...offer[ing] space for mutual support and learning, especially for women. As well as being creative, people use existing skills and develop new ones, and establish a network and knowledge of regulatory systems that affect them. People can work here whilst also receiving Unconditional Credit (a form of Basic Income). At the CIC people hear about exciting new developments in Children’s Services, such as parent advocates (to help avoid children being taken into care) and citizen involvement on local council committees. Recent entrants to the UK can access language and skills support so that they can contribute quickly to the local economy.<sup>56</sup>

The move, in utopian thinking, from ‘speculation to praxis’ is a difficult one.<sup>57</sup> Following the formal completion of ‘Life Chances’ as research, some of the community members have set up a ‘Creating Life Chances’ CIC – we watch this space with excitement and trepidation. The research also produced

<sup>54</sup> Email correspondence with C&R

<sup>55</sup> Poulter et al., op. cit., n. 47.

<sup>56</sup> <<http://www.productivemargins.ac.uk/files/2017/01/LCpolicybrief.pdf>>

<sup>57</sup> R. Levitas, ‘Looking for the Blue: The Necessity of Utopia’ (2007) 12(3) *J. of Political Ideologies* 289, at 295.

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the ‘Game of Life Chances’, played with facilitators on a carpet, which aimed to open up discussions between players about the various regulatory ‘blockages’ experienced by the actors because of their differing ‘life chances’, particularly about immigration status and education background. With additional funding, the game is being developed for the Creating Life Chances CIC to use in communities, workplaces and with local and national government. Connecting up issues concerning regulation more widely, as explored by artists during their residency across key PM locations, the Life Chances game may be used to develop spaces in which local politicians can explore their powers as regulators to work more effectively with community organisations in their constituencies.

In this fourth regulatory moment, bringing in artists has allowed for an orthogonal and systemic perspective on the regulatory issues at stake whilst remaining grounded in experience, making it possible to develop socially enriched ways of seeing and knowing regulatory systems.

### CONCLUSION

We argued at the beginning of this paper that regulation scholarship and practice have two principle problems: a lack of understanding of how regulation is experienced by those meant to be the beneficiaries of regulation but feel at the ‘sharp-end’; and a siloed-approach where, for example, health and safety is understood as discrete from employment regulation which is discrete from health provision, and so on. The result is that regulation still feels ‘top-down’ for many, and regulators are unable to see the complex web of regulatory systems and regulations that enmesh the lives of people living in communities at the margins.

Our research programme has sought to reimagine regulatory systems through seeking out understandings of how *all* the actors in regulatory space experience and interact with systems; here regulation is not simply as a series of processes but also interactions that involve human feeling and human reaction. Through processes of co-production and involving creative artists, we would argue, it is possible to locate ways of seeing and knowing the complex interaction of regulatory systems that are less instrumental and more human centred. Through these means regulatory systems can engage not just with the relatively powerful organisations that are ostensibly the objects of regulation, but also with those who experience ‘being regulated’ on a daily basis. Failure to appreciate the ‘expertise-by-experience’ of ‘ordinary people’s’ daily experience of regulation can lead to democratic expressions, such as the UK’s Brexit vote, which reject the whole legitimacy of regulation.

The understandings we have gained through this research programme of the complexities of such methodological shifts have relevance beyond research for co-production is one way in which expertise, in a broad sense, is (potentially) being acknowledged and incorporated into health and other public service provision. The four regulatory moments, around which we organised our critique, give rise to a number of practical and theoretical implications

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The first, around the formation of the research partnership, made us focus on what counts as expertise. Here the rules surrounding funding bids composed a partnership based on academic norms, creating hierarchies and power structures that ran throughout the programme. Later, when community members became part of the research process, priorities previously established were questioned, leading to a shifting direction for the research programme. We came to understand that knowing differently is a process of emergence, requiring space, time and resources which enable diverse forms of expertise into the spaces of co-production.

The second regulatory moment, around how to organise deliberation, required a focus on format, location and time, also interacting with questions of expertise. In seeking ways in which their expertise would not dominate, academics felt it was difficult to insert their knowledge. This suggests a need for 'Studies in Expertise and Experience', which can create clearer understandings of the knowledge, experience, skills and practices that partners bring to collaborative, interdisciplinary work.

In the third regulatory moment, how to organise resources, we experienced the multi-layering of regulation as the mechanisms and norms of working of other regulatory regimes led to compromise and accusations that what we were doing was not co-production. Indeed this, and the first two regulatory moments, revolved around major power imbalances that inevitably exist when co-production is attempted. The fact that all programme funding came through the University of Bristol meant that everyone felt the University was 'in charge'. To shift these power dynamics, it would be necessary for *all* partners to hold and control funds from the outset so that community partners could shape their own requirements at the bidding stage. This has implications far beyond research: if co-production is one way in which regulatory systems can become 'really responsive', then it needs systems of funding that reflect aspirations for equality of partners.

The fourth regulatory moment, bringing in artists as a way of enabling 'seeing differently', had the effect of disrupting vision. The Life Chances novel enabled community researchers to create storylines about the impact on characters' lives of regulatory systems such as benefits, housing, immigration and child protection, demonstrating the laminating effect of experiencing multiple layers of regulation. Similarly, the work of an artist with the food group catalysed the women's identification of concerns around food takeaways that were not just about the way food is regulated, but were also about planning, lack of safe places for community members, and lack of facilities for young people. Both these projects created alternative visions for community economies which are now being enacted by some of the participants in this experimental programme.

So, co-production expands our ways of knowing by allowing in expertise-by-experience to the deliberative processes of regulation; and the creative processes that artists bring in can produce artefacts, such as the Life Chances novel, the Somali Kitchen and other more 'playful' modes for creating

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deliberation around the impact of regulatory systems,<sup>58</sup> that have an important role in developing ‘really responsive regulation’.

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<sup>58</sup> See D. Cooper, ‘Retrieving the State for Radical Politics – A Conceptual and Playful Challenge’ (2016) 14(3) *J. of Social Policy Studies* 409.